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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,764	03/09/2001	Guenter Hess	197934US6	4543

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EXAMINER

NOVOSAD, JENNIFER ELEANORE

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 01/14/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/801,764

Applicant(s)

HESS ET AL.

Examiner

Jennifer E. Novosad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/801,764.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Priority

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 09/801,764, filed on March 9, 2001.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3, 8, and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 is rendered indefinite since the claim fails to further limit the structure of the dish rack.

The recitation "substantially polyamide" in line 2 of claim 8 renders the claim indefinite since it is unclear what is meant by the term "substantially".

Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite since it is unclear whether the combination of the dishrack and a dishwasher is being set forth.

Accordingly, it is suggested that the phrase --In combination-- be added to the claim and that the structure of the dishrack, as defined in claim 1 be inserted for "the dish rack of claim 1".

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Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, and 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Llewellyn '993.

Llewellyn '993 discloses an assembly defined by a dishrack in a dishwasher whereby the dishrack (10) comprises a frame (see Figure 3) defined by metal rods (16 - see column 2, line 57) that have a plastic coating (18 - see column 2, line 57) which covers the frame (16 - see Figure 3). It is noted that when the dishwasher is in use, the shape of the rods, i.e., circular, would inherently cause the water in the dishwasher to be distributed over the surface of the coating and frame.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Llewellyn '993, alone.

Llewellyn '993 discloses the assembly as advanced above.

The claims differ from Llewellyn '993 in requiring: (a) the plastic to have a specific surface roughness, and (b) the frame to be comprised of steel wire.

With respect to (a), although Llewellyn '993 does not disclose the roughness of the coating, it can be seen from Figure 3 that the coating is smooth. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have fabricated the frame having a coating with a low surface roughness, as determined through routine experimentation and optimization, to increase the flow of water off of the frame thereby decreasing the risk of corrosion.

With respect to (b), although Llewellyn '993 does not disclose the frame being made from steel, it would have been an obvious engineering design choice to one of ordinary skill in the art at the time the invention was made to have utilized steel wire for the frame, thereby increasing the strength, stability, and rigidity of the frame.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Llewellyn '993 as applied to claims 1, 3, and 7-9 above, and further in view of Keeny *et al.* '000. Llewellyn '993 discloses the assembly as advanced above.

The claims differ from Llewellyn '993 in requiring: (a) the coating to be deposited by a coating process, and (b) the coating to comprise polyamide.

Keeny *et al.* '000 teach a plastic coating process (see column 4, lines 17-30) whereby a polyamide coating is deposited onto such devices as dishwasher baskets.

With respect to (a) and (b), it would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized a polyamide coating placed on the frame by a

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plastic coating process, as taught by Keeny *et al.* '000, thereby decreasing corrosion and wear resistance.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is (703)-305-2872. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703)-308-2686. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-305-3597 for regular communications and (703)-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-1113.



Jennifer E. Novosad/jen
January 8, 2002

DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600